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R-448-2008

PUBLIC SERVICE  
COMMISSION

**FRANCHISE AGREEMENT**

**THIS AGREEMENT** made and entered into this 8<sup>th</sup> day of July, 2008, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes (hereinafter the "Government"), and **COLUMBIA GAS OF KENTUCKY, INC.**, a corporation created and existing under and by virtue of the laws of the Commonwealth of Kentucky, with its principal office at 2001 Mercer Road, Lexington, Kentucky 40512-4241 (hereinafter "Columbia").

**WITNESSETH:**

**WHEREAS**, by Ordinance No. 135-2008, enacted June 18, 2008, the Government created a non-exclusive franchise for the privilege of constructing, erecting, operating and maintaining a gas distribution system in Lexington-Fayette Urban County, Kentucky, for a period not to exceed three (3) years; and

**WHEREAS**, by Ordinance No. 135-2008, the Government authorized the advertising for bids on said franchise; and

**WHEREAS**, on July 2, 2008, Columbia submitted a bid to acquire said franchise; and

**WHEREAS**, by Resolution No. 448-2008, enacted July 8, 2008, the Government accepted the bid of Columbia as substantially responsive to Ordinance No. 135-2008 and in the best interest of the citizens of Lexington-Fayette Urban County; and



**WHEREAS**, the Government and Columbia have agreed to accept the following as the terms of this Agreement and as those of the franchise.

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of all of which are hereby acknowledged, the Government and Columbia agree as follows:

1. Ordinance No. 135-2008, which is attached hereto as Exhibit "A" (the "Ordinance"), is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of Columbia for this franchise, which is attached hereto as Exhibit "B", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. The Government hereby grants unto Columbia a non-exclusive franchise for the privilege of constructing, erecting, operating and maintaining a gas distribution system upon, through, along, under and over the public streets, alleys, avenues, public roads, highways, sidewalks, and other public ways of the Lexington-Fayette Urban County Government in accordance with the terms of the Ordinance.

4. This Agreement shall commence on July 8, 2008, and shall expire on July 1, 2011.

5. In consideration of the granting of this franchise, Columbia agrees to pay to the Government a sum equal to three percent (3%) of the gross annual revenues received by Columbia from the sale, distribution, and/or delivery of gas within Fayette County.



6. Columbia, its successors and assigns, in consideration of the grant, sale and conveyance of the above franchise, does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as contained in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.

7. This Agreement contains and embodies the entire agreement between the parties and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto. No changes, modifications or other deletions in this Agreement shall be effective unless and until the same are reduced to writing and approved, adopted, and executed in the same fashion as this Agreement.

**IN TESTIMONY WHEREOF**, the Lexington-Fayette Urban County Government has caused its name to be affixed hereto by the Mayor and Columbia Gas of Kentucky, Inc., has caused its name to be affixed hereto by Herbert Miller, its properly authorized officer.

LEXINGTON-FAYETTE URBAN COUNTY  
GOVERNMENT

BY: Jim Newberry  
JIM NEWBERRY, MAYOR

ATTEST:

Susan Lamb  
SUSAN LAMB, COUNCIL CLERK

COLUMBIA GAS OF KENTUCKY, INC.

BY: Herbert A. Miller  
HERBERT MILLER, PRESIDENT



STATE OF KENTUCKY     )  
  )  
COUNTY OF FAYETTE    )

The foregoing Agreement was subscribed, sworn to and acknowledged before me by Herbert Miller, as President of Columbia Gas of Kentucky, Inc., on this the 7<sup>th</sup> day of July, 2008.

My commission expires: April 13, 2012

Claudette Meiners  
NOTARY PUBLIC  
KENTUCKY, STATE-AT-LARGE

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